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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,829	03/08/2004	Ramesh R. Sarukkai	017887-006510US	2505
38880	7590	07/25/2006		EXAMINER
DARBY & DARBY P.C. P.O. BOX 5257 NEW YORK, NY 10150-6257				CHAWAN, VIJAY B
			ART UNIT	PAPER NUMBER
			2626	

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/796,829	SARUKKAI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vijay B. Chawan	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 5-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 5-26 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 July 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

## DETAILED ACTION

### ***Specification***

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

2. The abstract of the disclosure is objected to because there appears to be extraneous information at the end of abstract that should be removed. Correction is required. See MPEP § 608.01(b).

***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 5-26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,728,731.

Although the conflicting claims are not identical, they are not patentably distinct from each other because, the claims in the instant application are similar in scope and content as those of the patent claims. Both sets of claims are directed toward a system and method for referencing audio content in hyperlinked web documents.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 5-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Boys (6,314,094).

As per claim 5, Boys teaches a method of providing a user with audio content, the method comprising the steps of:

providing a device with an audio content menu of audio content links over a data channel, wherein an audio content link includes an audio content reference to audio content (Col.2, lines 55-58);

receiving a request from the device for audio content over a voice channel at a telephony system, wherein the request contains the audio content reference to the audio content requested (Col.2, lines 58-65);

providing the audio content reference to an audio server (Col.2, lines 58-65);

determining using the audio server, the audio content associated with the audio content reference (Col.2, lines 58-65, Col.3, lines 14-30); and,

sending the audio content to the device (Col.2, lines 58-65).

As per claim 6, Boys teaches the method of claim 5, wherein the request comprises a telephone number and extension (Col.2, lines 58-65).

As per claim 7, Boys teaches the method of claim 6, wherein receiving the request comprises reading the telephone number and extension with caller-ID (Col.3, lines 39-51).

As per claim 8, Boys teaches the method of claim 7, including the step of matching a caller identification with an identification in a user database to determine a userid (Col.3, lines 39-51).

As per claim 9, Boys teaches the method of claim 5, wherein receiving the request further comprises sending a signal from the telephony system to the device, sending the audio content reference to the telephony system when the device receives the signal (Col.3, lines 39-51).

As per claim 10, Boys teaches the method of claim 5, wherein receiving the request includes a digit collect (Col.3, lines 39-51).

As per claim 11, Boys teaches the method of claim 5, wherein receiving the request comprises sending the audio content reference in a series of tones (Col.3, lines 39-51).

As per claim 12, Boys teaches the method of claim 5, further comprising associating an identifier with the audio content reference (Col.3, lines 39-51).

As per claim 13, Boys teaches the method of claim 12, wherein receiving the request comprises using the identifier to associate the audio content reference with the request (Col.3, lines 39-51).

As per claim 19, Boys teaches the method of claim 5, further comprising generating a web page that includes the audio content menu, wherein providing the device with the audio content menu comprises providing the web page over the data connection (Col.2, lines 55-65, Col.3, lines 14-30).

As per claim 20, Boys teaches the method of claim 5, wherein the device comprises a wireless device (Col.4, lines 54-67).

As per claim 21, Boys teaches the method of claim 5, wherein the device comprises a mobile phone (Col.4, lines 54-67).

As per claim 14, Boys teaches a telephony system for referencing audio content for a device, the system comprising:

a telephony platform configured to send a menu that includes one or more audio contents links to the device over a data channel and to establish a voice connection with the device, wherein an audio content link in the one or more audio content links is received from the device over the voice connection (Col.2, lines 55-65, Col.3, lines 14-30);

a database that includes one or more database references, wherein the one or more database references correspond to the one or more audio content links, wherein a database reference in the one or more database references is associated with audio content (Col.2, lines 55-65, Col.3, lines 14-30); and,

an audio server configured to receive the audio content link from the telephony platform and to determine a database reference that corresponds to the received audio

content link and send audio content corresponding to the database reference to the device (Col.2, lines 55-65, Col.3, lines 14-30).

As per claim 15, Boys teaches the system of claim 14, wherein the audio content reference comprises a telephone number (Col.3, lines 39-51).

As per claim 16, Boys teaches the telephony system of claim 15, wherein the audio content reference comprises an extension at the end of the telephone number (Col.3, lines 39-51).

As per claim 17, Boys teaches the telephony system of claim 14, wherein the audio content comprises voicemail, email, events and music or radio on demand (Col.2, lines 55-65, Col.3, lines 14-30).

As per claim 18, Boys teaches the system of claim 14, wherein the audio content includes a state of the system, wherein the state of the system is used to determine audio content associated with the audio content reference (Col.2, lines 55-65, Col.3, lines 14-30).

As per claim 22, Boys teaches a telephony system for referencing one or more audio content links for a wireless mobile device, the system comprising:

a web page generator configured to generate a web page that includes a menu of one or more audio content links (Col.2, lines 55-65, Col.3, lines 14-30);

a data channel system configured to send the web page to the wireless mobile device over a data connection (Col.2, lines 55-65, Col.3, lines 14-30);

a voice channel system configured to receive an audio content link in the one or more audio content links from the wireless mobile device over a voice connection (Col.2, lines 55-65, Col.3, lines 14-30); and,

an audio server configured to receive an audio content link from the voice channel system and to determine a reference that corresponds to the received audio content link (Col.2, lines 55-65, Col.3, lines 14-30).

As per claim 23, Boys teaches the system of claim 22, further comprising a database that includes one or more references, wherein the one or more references correspond to the one or more audio content links, wherein a reference in the one or more references is associated with audio content Col.2, lines 55-65, Col.3, lines 14-30).

As per claim 24, Boys teaches the system of claim 22, wherein the data channel system is configured to generate the web page using one or more references to audio content is stored (Col.2, lines 55-65, Col.3, lines 14-30).

As per claim 25, Boys teaches the system of claim 22, wherein the voice channel system is configured to establish an initial connection through at least one of a public switched telephone network (PSTN) and a voice over Internet Protocol (VoIP) network (Fig.1).

As per claim 26, Boys teaches the system of claim 22, wherein the voice channel system is configured to send audio content corresponding to the reference to the wireless mobile device (Col.4, lines 54-67).

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Boys (6,993,004) teaches a method and apparatus for practicing IP telephony from an Internet capable radio.

Weiner (6,671,732) teaches a method and apparatus for control of content based rich media streaming.

Oh et al., (6,185,537) teach a hands-free audio memo system and method.

Wise et al., (5,884,262) teach a computer network audio access and conversion system.

Rhie et al., (5,953,392) teach a method and apparatus for telephonically accessing and navigating the Internet.

Koch et al., (6,687,341) teach a network and method for the specification and delivery of customized information content via a telephone interface.

Weiner (6,671,732) teaches a method and apparatus for control of content based rich media streaming.

Schuster et al., (6,914,897) teach a system and method for accessing radio programs using a data network telephone in a network based telecommunication system.

DuVal (5,818,836) teaches a method and apparatus for anonymous voice communication using an online data service.

Partovi et al., (6,970,915) teach streaming content over a telephone interface.

Logan et al., (6,199,076) teach an audio program player including a dynamic program selection controller.

Alpdemir et al., (6,934,684) teach a voice interactive marketplace providing promotion and promotion tracking, loyalty reward and redemption, and other features, using an audio interface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vijay B. Chawan whose telephone number is (571) 272-7601. The examiner can normally be reached on Monday Through Friday 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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7/22/06

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